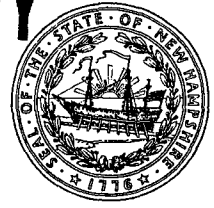


State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2147 FAX (603) 271-6588

**FILE COPY**



Ronald & Merilyn Lien  
61 Harris Shore Rd.  
Gilford, NH 03249

Re: 61 Harris Shore Rd., Gilford, NH  
Wetland File #2003-2089

**ADMINISTRATIVE ORDER  
No. WD 05-17-B**

June 1, 2005

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to Ronald and Merilyn Lien, pursuant to RSA 482-A:6. This Administrative Order is effective immediately upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 29 Hazen Drive, Concord, NH 03301.
2. Ronald and Merilyn Lien are individuals having a mailing address of 61 Harris Shore Rd., Gilford, NH 03249.

**C. STATEMENT OF FACTS AND LAW**

1. Pursuant to RSA 482-A, the Department of Environmental Services regulates dredging, filling, and construction in or on any bank, flat, marsh, wetland or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I, the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. RSA 482-A:3, I states that "no person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without permit from [DES]."
3. Ronald and Merilyn Lien are the owners of land located on Harris Shore Road, in Gilford, NH, more particularly described on the Town of Gilford Tax Map 223 as Lot 408.100 (the "Property").
4. On September 15, 2003, DES received a complaint alleging that a 150' long by 4' wide dock was constructed on the Property without a permit.
5. On September 22, 2003, DES sent a letter to Mr. and Mrs. Lien notifying them that DES had

received a complaint regarding their dock.

6. On September 28, 2003, there was a phone conversation between Mr. Lien and DES personnel. During the conversation, Mr. Lien stated that he and his wife had owned the Property since 1969; there had been a seasonal dock on the Property since that time; and, in that time they had not extended the dock, only replaced existing sections.

7. On September 29, 2003, DES sent a letter to Mr. and Mrs. Lien confirming the content of a phone conversation between DES personnel and Ronald Lien. DES included a grandfathered certification form with the letter and asked Mr. Lien to fill it out with proper photographic evidence, if they would like to obtain grandfathered status for their dock.

8. On October 17, 2003, DES received a photograph of the dock taken from an abutter's property in 1985. This picture reveals that in 1985, the dock consisted of 10, 10' sections, equaling a total of approximately 100' long.

9. On October 31, 2003, DES received a completed "Grandfathered Shoreline Structures" certification form for the Property, stating that the dock was at one point 170' long, and is currently 158' long.

10. Pursuant to Wt 101.44, "Grandfathered Status" means that a structure: "(a) Was in place before permit jurisdiction under RSA 482-A:3 or its predecessor statute, RSA 483-A:1, I, took effect; (b) Has remained unaltered in location, size and configuration; and, (c) Has not been abandoned within the meaning of DES Wetland Bureau Rules Wt 502.05, Wt 303.05(a)(4), and Wt 101.01."

11. Permit jurisdiction for seasonal shoreline structures in fresh water took effect September 4, 1978.

12. On November 18, 2003, an aerial photograph dated August 1, 1981 was submitted to DES by the Harris Shore Association. It shows that the Lien's dock was no more than 130' long at that time.

13. On April 6, 2004, Mr. and Mrs. Lien brought historical photographs of the dock to DES, none of which demonstrated that the dock was 160' long. DES personnel showed Mr. and Mrs. Lien the aerial photograph taken in 1981, in which the dock was approximately 130' long.

14. On April 15, 2004, DES sent a letter to Mr. and Mrs. Lien requesting documentation by May 1, 2004, that the dock had been 160' long when DES began regulating docks in 1978.

15. On June 15, 2004, DES personnel conducted an inspection of the Property and measured the dock at 148' long. The Liens explained that one of the sections had been shortened by 2 feet and that they had not put one of the other sections out that year.

16. On June 23, 2004, DES received a letter from Ronald Lien with three photographs. The letter states that the pictures were taken in 1980 and that all of the dock sections have been 10 feet except for one that was cut because the end was rotten and it is now 8 feet. The photos depicted the following:

a. The first picture, labeled by DES as picture A shows three full sections of dock, and it is evident that there is another section of dock landward of those three sections. The letter submitted states that the bench is located on section six, the next section lakeward of the last shown, but it is not visible in the picture.

b. The second picture, labeled by DES as picture B shows seven or eight sections of the dock going out towards the lake, and a U-shaped section that the Liens no longer put out. The letter states that the first visible section in the picture is section six.

c. The third picture, labeled by DES as picture C shows three sections in the middle of the dock, including the section containing the bench.

17. On March 14, 2005 DES summarized additional analysis of aerial photographs from the Wetlands Bureau archives as follows:

- a) A July 1968 aerial photograph shows that the Dock measured approximately 75'.
- b) A June 1970 aerial photograph shows that the Dock measured no more than 80'.
- c) An August 1981 aerial photograph shows that the Dock measured no more than 130'.

#### **D. DETERMINATION OF VIOLATIONS**

1. Ronald and Merilyn Lien violated RSA 482-A:3, I by lengthening a dock lakeward beyond its historic 130 foot length on Lake Winnepesaukee without a permit from DES.

#### **E. ORDER**

Based on the above findings, DES hereby orders Ronald and Marilyn Lien as follows:

- 1. By June 10, 2005, permanently remove those portions of the dock that are in excess of 130 feet long. This will require the removal of the lakeward end of the dock in excess of 130 feet as measured from the high water mark at the shoreline.
- 2. Submit photographs and a letter documenting removal in accordance with Item E.1 (above) by June 17, 2005.
- 3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Tracey Boisvert, Compliance Supervisor  
DES Wetlands Bureau  
P.O. Box 95  
Concord, NH 03302-0095  
Fax: (603) 271-6588  
e-mail: tboisvert@des.state.nh.us

#### **F. APPEAL**


Any person aggrieved by this Order may request DES to reconsider the Order within 20 days of the date of the Order. The request for reconsideration must describe in detail each ground for the request. DES may grant a rehearing, if in its opinion, good cause is demonstrated by the request. Any party not satisfied with the decision on reconsideration may appeal to the Wetlands Council. Please note that under RSA 482-A:10,II, the Council may not consider any ground that is not set forth in the request for reconsideration.


Filing an appeal or motion for reconsideration does not relieve any party or Ronald and Marilyn Lien of the obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA 482-A and RSA 485-A provide for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Ronald and Marilyn Lien remain obligated to comply with all applicable requirements, in particular removal of the dock as required by the Order. DES will continue to monitor Ronald and Marilyn Lien's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Belknap County Registry of Deeds so as to run with the land.

*for*   
\_\_\_\_\_  
Harry T. Steward, P.E., Director  
Water Division

  
\_\_\_\_\_  
Michael R. Nolin, Commissioner  
Department of Environmental Services

Certified Mail/RRR: 7002 3150 0001 5411 0671

cc: Gretchen R. Hamel, Legal Unit Administrator  
Public Information Officer, DES PIP Office  
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB  
Belknap County Registry of Deeds  
Gilford Selectmen  
Gilford Conservation Commission  
File #2003-02091